1 JOSEPH A. VELEZ ATTORNEY AT LAW (SBN: 16059) 2 7272 E. Indian School Rd., Ste. 111 3 Scottsdale, Arizona 85251 480.710.5079 4 Attorney for Plaintiff 5 jvelezesq@me.com 6 IN THE UNITED STATES DISTRICT COURT 7 **DISTRICT OF ARIZONA** 8 9 No. 2:18-cy-01976-DGC 10 Dr. Irina Beloozerova, 11 Plaintiff, 12 13 PLAINTIFF'S RULE 41(a)(2) V. MOTION TO VOLUNTARILY 14 Dignity Health, a foreign nonprofit **DISMISS WITH PREJUDICE** 15 corporation, d/b/a St. Joseph's Hosptial and Medical Center, and d/b/a Barrow 16 Neurological Institute; John Doe's I - V; Gray 17 Corporations I - V, (Assigned: Hon. David G. Campbell) 18 19 Defendants, 20 21 22 23 Pursuant to Federal Rule of Civil Procedure 41(a)(2), the Plaintiff Dr. Irina 24 Beloozerova moves the Court to dismiss all four (4) counts of her Complaint against 25 Defendant Dignity Health with prejudice¹. In support of this Motion, the Plaintiff states as 26 follows: 27

¹ This would include all named parties in Plaintiff's Complaint.

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1. Plaintiff Dr. Beloozerova was terminated from her employment with Dignity Health shortly after Dignity prevailed in the preliminary injunction hearing (Doc. 38). Since her termination, she has spent most of her time dismantling her former laboratory at Barrow Neurological Institute.

- 2. Plaintiff has considered the benefits of continuing the litigation against the anticipated costs, and has concluded that maintaining her case would be impractical and imprudent due to financial resource considerations and since her laboratory has now shut down. She also desires to minimize utilizing further judicial resources and limit the costs to all parties.
 - 3. Plaintiff seeks this dismissal with prejudice.

Memorandum of Law

Federal Rule of Civil Procedure 41(a)(2) authorizes the Court to grant Plaintiff's motion to dismiss upon such terms and conditions as the Court deems proper. The decision to grant a motion under Rule 41(a)(2) rests "within the sound discretion of the district court," and the exercise of that discretion should take into account "the interests of the defendant, for Rule 41(a)(2) exists chiefly for the protection of the defendants." *Fisher v. P.R. Marine Mgmt., Inc.*, 940 F.2d 1502, 1503 (11th Cir. 1991). "[I]n most cases," a motion to dismiss under Rule 41(a)(2) "should be granted unless the defendant will suffer clear legal prejudice, other than the mere prospect of a subsequent lawsuit, as a result." *McCants v. Ford Motor Co.*, 781 F.2d 855, 856-57 (11th Cir. 1986). Here, since Plaintiff is seeking dismissal with prejudice, Defendant Dignity Health will not be prejudiced nor will their interests be impaired.

WHEREFORE, the Plaintiff respectfully moves this Court to dismiss with prejudice all four (4) claims asserted in her Complaint against Defendant.

DATED this 29th day of August, 2018. /s/ Joseph A. Velez JOSEPH A. VELEZ 7272 E. Indian School Rd., Ste. 111 Scottsdale, Arizona 85251 480.710.5079 Attorney for Plaintiff Dr. Irina Beloozerova **CERTIFICATE OF SERVICE** I, Joseph Velez, attorney for Plaintiff, hereby certifies that on 29th of August, 2018, I electronically transmitted the attached document to the following attorneys: Stephanie Quincy, Esq. Nicole Simmons, Esq. Quarles & Brady, LLP. Renaissance One, Two North Central Avenue Phoenix, AZ 85004-2391 stephanie.Quincy@quarles.com Nicole.Simmons@quarles.com By: /s/ Joseph A. Velez